

STATE OF SOUTH DAKOTA
BOARD OF MINERALS AND ENVIRONMENT
DEPARTMENT OF ENVIRONMENTAL AND NATURAL RESOURCES

IN THE MATTER OF DRAFT TITLE V AIR)	
QUALITY PERMIT AND ACID RAIN)	CONSOLIDATED
PERMIT NO. 28-0801-29 FOR THE BIG)	
STONE FACILITY AND IN THE MATTER OF)	Permit No. 28.0801-29
DRAFT PSD PERMIT NO. 28-0803-PSD)	&
PERMIT NO. 28-0803-PSD FOR THE BIG)	Permit No. 28.0803-PSD
STONE FACILITY)	
)	
DENR Draft Permits Issued: 01-08)	
DENR Proposed Permits Issued: 04-08)	
)	

FINAL DECISION OF BOARD OF MINERALS AND ENVIRONMENT

On Thursday, November 20, 2008, this matter came to the attention of the Board for final oral arguments of the parties and Board consideration. Deputy Attorney General Roxanne Giedd appeared on behalf of DENR. Attorneys Thomas J. Welk and Harry M. Johnson, III, appeared on behalf of Applicant Otter Tail. Attorneys Aaron Emerson and William Moore appeared (telephonically) on behalf of Petitioners Sierra Club and Clean Water Action. The Board heard the arguments and comments of counsel, considered the briefs and the proposed findings of fact and conclusions of law submitted by the parties, and considered the evidence admitted in the contested case hearings.

Based on the foregoing, the Board: (1) adopts the findings of fact and conclusions of law proposed by Otter Tail and in which the DENR joined, and incorporates them by this reference as if set forth herein; (2) rejects the findings of fact and conclusions of law proposed by Sierra Club and Clean Water Action; (3) authorizes and directs DENR to issue the PSD permit in the name of the Board consistent with Otter Tail's proposed findings of fact and conclusions of law that have been adopted by the Board; (4) authorizes and directs DENR to prepare the Title V permit in the name of the Board consistent with Otter Tail's proposed findings of fact and conclusions of law that have been adopted by the Board and to submit such permit, along with

the entirety of the record of the contested case proceeding, to the United States Environmental Protection Agency for its 45-day review; and, (5) authorizes and directs DENR to issue the Title V permit in the name of the Board consistent with Otter Tail's proposed findings of fact and conclusions of law that have been adopted by the Board if the United States Environmental Protection Agency does not object within their 45-day review period.

Dated this 20th day of November, 2008.

SOUTH DAKOTA BOARD OF MINERALS AND
ENVIRONMENT

By


Lee M. McCahren

*Hearing Chairman of the Board of Minerals
and Environment*